ARMY ACQUISITION OF SUBORDINATION OF OSAGE MINERAL RIGHTS

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

FIRST SESSION

ON

S. 1370

TO AUTHORIZE THE SECRETARY OF THE ARMY TO ACQUIRE, BY CONDEMNATION PROCEEDINGS, OR OTHERWISE, SUCH INTERESTS IN THE OIL, GAS, COAL, OR OTHER MINERALS OWNED BY THE OSAGE TRIBE OF INDIANS NEEDED FOR SKIATOOK LAKE, OSAGE COUNTY, OKLAHOMA

NOVEMBER 23, 1981

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ARMY ACQUISITION OF SUBORDINATION OF OSAGE MINERAL RIGHTS

NOVEMBER 23, 1981

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 5302, Dirksen Senate Office Building, Senator William S. Cohen (chairman) presiding.

Staff present: Timothy Woodcock, staff director; Peter Taylor, general counsel; and Mary Jane Wrenn, staff attorney.

Senator COHEN. The hearing will come to order.

The hearing today concerns S. 1370 which was introduced by Senator Boren, for himself and Senator Nickles. This bill will authorize the Department of the Army to obtain a subordination by way of condemnation over mineral interests owned by the Osage Indian Tribe in lands to be flooded by the Skiatook Dam project in Osage County, Okla.

Without objection, I will place a copy of S. 1370 in the record at this point.

[The bill follows:]

97TH CONGRESS
1ST SESSION

S. 1370

To authorize the Secretary of the Army to acquire, by condemnation proceedings, or otherwise, such interests in the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians needed for Skiatook Lake, Osage County, Oklahoma.

IN THE SENATE OF THE UNITED STATES

JUNE 16 (legislative day, JUNE 1), 1981

Mr. BOREN (for himself and Mr. NICKLES) introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

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A BILL

To authorize the Secretary of the Army to acquire, by condemnation proceedings, or otherwise, such interests in the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians needed for Skiatook Lake, Osage County, Oklahoma.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army is hereby authorized to acquire a subordination, by condemnation proceedings or otherwise, of such interests in the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians, or held in trust for said

tribe, to the extent necessary for the construction of works relating to Skiatook Lake and the operation and maintenance of such lake as a part of the project for improvement of the Verdigris River and tributaries, Oklahoma and Kansas, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1180; Public Law 87–874).

Senator COHEN. Senator Nickles is scheduled to testify, but I understand he has been detained.

While we are waiting for Senator Nickles, I have a statement offered by Senator Boren, so I will read Senator Boren's statement to at least give the outline of the nature of this case.

STATEMENT OF DAVID L. BOREN, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator COHEN [reading]:

Mr. Chairman, I am pleased to offer my comments on S. 1370 which I introduced along with my colleague from Oklahoma, Mr. Nickles.

This legislation would authorize the Secretary of the Army to subordinate the mineral rights owned by the Osage Tribe of Indians to the surface rights for the purpose of construction and completion of Lake Skiatook in Oklahoma.

This legislation is necessary as the result of a 1976, Eight Circuit of Appeals case, *U.S.* v. *Winnebago*, wherein the Court held that the United States was without authority to condemn lands acquired by the Winnebago Indian Treaty and held in trust by the United States without a clear expression of Congressional intent to authorize the condemnation.

The Osage Allotment Act of 1906 reserved the mineral interest in the Osage Tribal lands to the Tribe with provisions that the royalties from the mineral interest would be paid to the United States in trust for the Tribe.

The Justice Department has stated that they believe that the holding in the *Winnebago* case applies equally to the Osage and that express Congressional intent to acquire the Osage mineral interest would be required before condemnation could be undertaken.

In addition to the requirements imposed by *Winnebago*, I am equally aware of our Nation's need for increased energy production, especially the continuation of the search for and recovery of oil and gas which is abundant in Osage County.

It is for this reason that I requested that concessions be made in the Skiatook Lake area to allow for drilling activity in any area about the conservation pool, elevation 714 feet, to assure continued recovery of valuable resources.

I have also been given the assurance that drilling platforms will be allowed in the lake itself for the purpose of drilling for oil and gas reserves.

In short, I have tried to insure continued drilling activity in and around the Skiatook Lake area in order that the Osage Tribe will continue to receive revenue rightly due them and to provide a means for the recovery of minerals that are vital to our Nation's energy independence.

Negotiations are now complete. We have been able to satisfy both the Osage Tribal Council and the Corps of Engineers, representing the United States, and have negotiated a settlement of $7.4 million.

I have been assured that the money necessary for the acquisition of the mineral rights is in hand and is ready to be disbursed to the Federal District Court in Tulsa and, in turn, through them transferred to the Osage Tribe.

I have gone to great lengths to assure that there is no opposition from any side, and, in fact, am confident that everyone is satisfied with the arrangements.

As energy has been a major issue in the 1970's and will continue to be of concern to us all in the future, I believe that another valuable resource—water—will become an equally important issue in the 1980's.

We must now take the necessary measures to make sure we are well-equipped to handle our future water needs. It is for this reason that I believe that the completion of Skiatook Lake is vital to Oklahoma.

The Skiatook project was authorized by Section 203 of the Flood Control Act of 1962 and construction began in January 1974. To date, the project is 51 percent complete with completion expected in the fall of 1983.

The first application for water supply from the Skiatook Reservoir was filed with the Oklahoma Water Resources Board by the City of Sand Springs, Okla. on June 8, 1966, for 11,200 A/F annually.

Since that time ten other communities have made application for water from the Skiatook Reservoir, totaling 72,562 A/F annually, and a number of applications are pending.

The communities that will be served by the Skiatook project now depend on the City of Tulsa to supply their water needs. Tulsa has already informed representatives of these communities that they will not be able to continue to supply needs in the future due to the growth and increasing demand of Tulsa residents and busi-

nesses. Therefore, it is essential that this reservoir be completed so that existing needs will be met.

I urge the committee to act expeditiously to approve this legislation, so that this project may be completed for the benefit of all.

Senator Nickles, welcome.

STATEMENT OF DON NICKLES, U.S. SENATOR FROM THE STATE OF OKLAHOMA

Senator NICKLES. Thank you, Mr. Chairman.

I appreciate the opportunity to make a statement this morning in support of S. 1370, a bill which will authorize the Secretary of the Army to acquire subordination over mineral rights owned by the Osage Tribe of Oklahoma in order to complete the Skiatook Reservoir in Osage County, Okla.

The Osage Tribe and the U.S. Corps of Engineers negotiated over several months to arrive at an agreement which will permit oil and gas recovery from the public use lands except the damsite area. The United States will, in return, compensate the tribe for the subordination by payment, as you mentioned, of $7.4 million.

The construction of the Skiatook Reservoir was authorized in the Flood Control Act of 1962 and construction was started in 1974. It is important to recognize that it was 2 years after the actual construction began that the courts held, in the case of *United States* v. *Winnebago Tribe* of Nebraska, the United States is not authorized to acquire mineral rights to Indian trust lands without a clear expression of congressional purpose to permit such acquisition.

It is the opinion of the Department of Justice that this determination applies to the Osage Tribe and the Skiatook project in Oklahoma.

This, therefore, necessitated the proposed legislation, S. 1370. At the time of the passage of the Flood Control Act of 1962, Congress was unaware of the need to express clearly the intent to subordinate the mineral rights of Indian trust lands.

I wish to commend the Osage Tribal Council and the responsible members of the Corps of Engineers who diligently pursued the contract now approved. I also appreciate the members and the staff of the Select Committee on Indian Affairs and their assistance to see rapid enactment of this legislation.

Damages to the oil producers from the present state of the reservoir construction could occur and expeditious enactment of S. 1370 is necessary to prevent this tragic incident.

Again, I thank you, Senator Cohen, and members of this committee and your staff for the opportunity to appear at this hearing and for your quick movement on this piece of legislation.

Senator COHEN. Thank you.

Prior to your arrival I pointed out that we were so concerned about expediting this that consideration was given to putting this in the continuing resolution with the conference report coming before the Congress.

I assume you are delighted that we have not done that.

Senator NICKLES. Wisdom has shown that would not have been the best course to take. So, we are pleased also.

We are very appreciative and very sincere when I say that. I am pleased with your assistance and your help to move this forward so we do not have the project basically bogged down in redtape.

Senator COHEN. Perhaps this is more appropriate for the witnesses who will follow, but give us your opinion.

Do you know whether or not this legislation will obviate or avoid the necessity of any judicial proceedings?

Senator NICKLES. I have not researched it to that extent. I am not really sure, but we feel like it will. We think the *Winnebago* case says that Congress has to do this. This is regretful in that you can have projects that basically are well or half completed and they have to be stopped to take care of this.

But we are pleased to the extent that—we thought it might have to be settled in the courts, but now with the tribal leaders and the Corps of engineers coming to an agreement, I think it is a fair agreement on both sides and for the taxpayers and for the Corps of Engineers and for the Indian leaders, too. This is good for all concerned.

Senator COHEN. Thank you very much for your testimony.

Our next witnesses will be William J. Cronin, Chief, Legislative Service Office, Directorate of Real Estate Office, Chief of Engineers, Department of the Army.

I believe Col. James Harman, who is the district engineer, U.S. Corps of Engineers, Department of Defense in Tulsa, Okla., will accompany him, along with William Gamal and Al Posner.

Mr. Cronin?

STATEMENT OF WILLIAM J. CRONIN, CHIEF, LEGISLATIVE SERVICES OFFICE, DIRECTORATE OF REAL ESTATE OFFICE, CHIEF OF ENGINEERS, DEPARTMENT OF THE ARMY, ACCOMPANIED BY JAMES J. HARMAN, DISTRICT ENGINEER, U.S. CORPS OF ENGINEERS, U.S. DEPARTMENT OF DEFENSE, TULSA, OKLA.; GLENN D. BAYLESS, CHIEF, GEOTECHNICAL BRANCH, ENGINEERING DIVISION, TULSA DISTRICT, CORPS OF ENGINEERS; AND CHARLES M. BLACKARD, CHIEF, REAL ESTATE DIVISION, SOUTHWESTERN DIVISION, DALLAS, TEX.

Mr. CRONIN. Thank you, Mr. Chairman.

Good morning, Mr. chairman. I am accompanied by Colonel Harman, who is the district engineer in Tulsa. He, in turn, is accompanied by Mr. Glenn Bayless, who is Chief of the Geotechnical Branch and Mr. Charles Blackard, Chief, Real Estate Division, Dallas, Tex.

I appreciate the opportunity to present to you, on behalf of the Department of the Army, its views on S. 1370, a bill to authorize the Secretary of the Army to acquire, by condemnation proceedings or otherwise, such interests in the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians needed for Skiatook Lake, Osage County, Okla.

The bill authorizes the Secretary of the Army to acquire by condemnation proceedings, or otherwise, a subordination of the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians or held in trust for the tribe for lands necessary to operate and maintain the Skiatook Lake water resources development project in Oklahoma.

The Skiatook Lake project provides for the construction of a reservoir for flood control, water supply, water quality control, recreation, and fish and wildlife purposes at Hominy Creek, 19 miles northwest of Tulsa, Okla.

All interests required for the project have been acquired except for oil, gas, coal, and other mineral rights of the Osage Indian Tribe.

While the United States has acquired all rights necessary for construction of Skiatook Dam itself, the reservoir cannot be filled until the mineral rights underlying the reservoir have been subordinated to the operation of the project.

Since the Indians do not have the right to sell their mineral interests, the normal procedure would be to initiate condemnation proceedings to acquire those interests. However, the United States may not condemn land or interests reserved to Indians by treaty without a clear expression of congressional authorization to acquire.

The bill, with the amendment proposed by the Department of the Interior, authorizing the Osage Tribal Council to negotiate an agreement and convey to the United States a subordination of the minerals, would provide the specific authority to acquire these interests.

Ownership of the mineral interests is not necessary. Acquisition by the Government of the subordination of the minerals will enable the Osage Indians to exploit the minerals, at their discretion, by any method which does not interfere with the construction, operation, or maintenance of the project.

We recommend one technical addition to S. 1370. On page 2, line 1 of the bill, the words "or leased by, or on behalf of, said tribe" should be added after the word "tribe." This would further insure that there was authority to subordinate the interests of any lessees of the Osage Tribe.

Without enactment of S. 1370, the Skiatook Lake project cannot be operated and the estimated benefits cannot be realized.

As I have stated, the enactment of S. 1370, with the amendments proposed by Interior and Army, will allow the Osage Tribe to retain ownership of its mineral interests and, at the same time, provide necessary water supplies for Oklahoma communities.

With the above-referenced amendment, the Army recommends enactment.

This concludes my statement, Mr. Chairman, and I shall be happy to answer questions you may have on this matter.

Senator COHEN. Thank you.

Colonel did you have a statement?

Mr. HARMAN. I do not.

Senator COHEN. The agreement between the Osage Tribal Council and the corps provides for payment of $7.4 million. The interests of the lessees also will be affected by this project.

Who is going to pay the lessees for adverse affects on their interests? How will those values be determined?

Mr. CRONIN. The negotiations will be conducted for the oil and gas lessees in the normal manner and compensation will be paid to them for the subordination of these interests.

Senator COHEN. It will be paid by the tribe or the corps?

Mr. CRONIN. By the corps.

Senator COHEN. This bill provides for an acquisition of a subordination by way of condemnation.

Please describe the terms of this subordination and what effect it will have on the future capacity of the Osage Tribe or its lessees to recover oil and gas from the inundated or flooded area.

Mr. CRONIN. Mr. Chairman, I have with me a copy of the appendixes which has been agreed to between the Osage Tribal Council and the Corps of Engineers which I would be happy to submit for the record.

Basically, the subordination is an agreement whereby the mineral rights are made subordinate to the use of the service of the land by the Government in connection with the operation and the maintenance of the Skiatook project.

This includes the right to flood those areas below the top of the flood control pool, and the right of the district engineer to approve or disapprove the location of any structures or improvements, the use for exploration or production on the minerals.

Continued production of oil and gas is compatible with the project. However, in some instances the physical effects of the project, such as the depth of the water, will make oil and gas production more difficult. Some wells may have to be plugged or remedial action taken to protect the wells from flooding.

Senator COHEN. What about secondary and tertiary methods of recovery?

Mr. HARMAN. Sir, the subordination does permit recovery by any method. Both secondary and tertiary techniques can be used.

Senator COHEN. Can they be used in this particular project?

Mr. HARMAN. That question is beyond my technical competence. I believe it is still possible to use both secondary and tertiary recovery methods.

Senator COHEN. Could we be supplied with a copy of the subordination agreement?

Mr. CRONIN. Certainly.

Senator COHEN. Without objection, a copy of that will be placed in the record at this point.

[Subsequent to the hearing, appendixes setting forth the agreement were submitted for the record along with a resolution of the Osage Tribal Council. See p. 31.]

Senator COHEN. When this bill was before the Congress a year ago, a question was raised about the structural integrity of this project.

Specifically, the Hominy New-Progress carried an article in its September 25, 1980, edition, to the effect that a Mr. John A. Hall, an international oil company consultant, had stated that unrecorded, uncapped and poorly plugged wells could lead to the collapse of the Skiatook Dam.

There is also an indication that these wells could lead to water pollution problems downstream.

I will ask that a copy of that article will be made a part of the record at this point.

Without objection, so ordered.

[The article follows:]

[From the Hominy New-Progress, Sept. 25, 1980]

OILMAN WARNS SKIATOOK THREATENED BY NEW DAM

[David Nagle, Hominy, attended the Sept. 17 meeting of the Osage Tribal Council in Pawhuska and gave the following report concerning the proceedings.]

The City of Skiatook and all areas below the Skiatook Dam are in imminent danger of destruction should water be impounded behind the dam, was the substance of testimony delivered before the Osage Tribal Council in Pawhuska, Sept. 17, by Mr. John A. Hall, an international oil company consultant.

Hall revealed that unrecorded, uncapped and poorly plugged wells would lead to the collapse of the dam. Hall, who on behalf of the federal government investigated the Teton Dam collapse, stated that these wells represent worse conditions than those which caused the Teton tragedy.

As a result, should water be impounded behind the Skiatook Dam, not only would the investment of federal funds be wasted, but the homes, property, businesses, and lives of those downstream would be lost, he maintained.

Furthermore, such wells also threaten pollution of ground water downstream from the dam due to resulting migration of oil, gas and/or saltwater reservoirs presently under the area to be flooded. Thus drinking water for many is threatened, Mr. Hall continued.

Additional testimony revealed that a geological survey of the Skiatook Basin being conducted by Dallas independent oil producer Mr. Larry Meeker is confirming that, conservatively speaking, over $1 billion worth of oil would be covered by the Skiatook Lake in an age then the country desperately needs to produce as much domestic oil as possible.

Proponents of the lake argue that most of this oil would still be recoverable through slant and platform drilling. According to Meeker, the price of oil would have to rise above $100 a barrel before these methods would prove feasible. Hall indicated that in any case secondary and tertiary recovery methods would not be possible due to uncapped and inadequately plugged wells in producing formations.

Hall recommended an all-out drilling effort to sweep clear all recoverable oil in the Skiatook Basin together with proper capping and plugging of all wells before inundating the area. He suggested this might take 20–30 years or possibly even up to 50 years to accomplish.

Senator Henry Bellmon has introduced legislation currently before Congress which would subordinate Osage Tribal ownership of the oil to allow the U.S. Army Corps of Engineers to proceed with impoundment of water.

Senator COHEN. Obviously, if there is substance to the concerns expressed by Mr. Hall, This should be a matter of concern to all persons downstream or living in the surrounding area.

Several questions stem from this. No. 1, what studies has the Corps of Engineers made with respect to the geological conditions described by Mr. Hall?

Mr. CRONIN. I will ask Mr. Bayless to respond to that.

Mr. BAYLESS. I presume you are talking about the geological conditions that the oil and gas interests are involved with? Or, are we talking about surface conditions?

Senator COHEN. Either one. The collapse of a dam, whether it is deep or surface, is tragic.

Mr. BAYLESS. Normally the deep geologic conditions do not come into play or are not involved in the safety of the structure. There have been very few recorded instances where that has been a problem.

Senator COHEN. Mr. Hall says it is comparable to the Teton Dam. He said that not only do you have a tremendous investment in the Federal dollars, but what you have is the potential hazard to the people living downstream, of their homes, lives, and property.

Mr. BAYLESS. At this site we have done significant geologic investigations. They have consisted of studies of the published literature and studies of the USGS data and studies of the Oklahoma geologic

survey data. From that, we devised a method or a system to proceed into the next step of the work.

The next step of the work would consist of aerial photography and mapping of all the visible geologic features and development of the topography of the site and development of the human activities that take place in the area such as quarries and excavations and oil and gas explorations and homesites, wells, or whatever can be located.

We then proceed into the onground site investigations which would involve detailed geologic mapping and then into the planned exploration program.

The planned exploration program would consist of developing the subsurface conditions which might affect the design of the dam or the reservoir integrity.

These studies include mapping of the geologic data, development of the engineering properties, and locating structures and faults and cavities and the strength of the materials and numerous types of engineering data.

The primary conditions evaluated for safety are those of seismic seepage and stability and all of these engineering features were addressed during the design of the project and the structural integrity of the dam has more or less been proven.

I am not sure what specifically you want me to respond to.

Senator COHEN. How has the structural integrity been proved? Are there dams built near this area?

Mr. BAYLESS. We have four or five structures within the general vicinity of the site.

Senator COHEN. Essentially the same geological conditions?

Mr. BAYLESS. About 20 miles away. Birch Dam is about the same.

Senator COHEN. What have you learned in the construction of those dams?

Mr. BAYLESS. The foundations basically are shale, sandstone, and some limestone. At Skiatook the primary foundation in the flood plain is out of shale material, which is oil, for practical purposes, and impermeable. We have had no particular problems like that at Birch. We do not anticipate problems at Skiatook.

There is one material, limestone, which is high in this section, which has some permeability. We have taken the normal engineering design approaches to attempt to control that situation.

We feel at the present time we have adequate design control.

Senator COHEN. All these studies that have been conducted by the Corps of Engineers. Are they a matter of public record?

Mr. BAYLESS. Yes.

Senator COHEN. Where would they be found?

Mr. BAYLESS. They are located in our office in the district in Tulsa.

Senator COHEN. Anyone who is interested could obtain a copy of those studies?

Mr. BAYLESS. Yes.

Senator COHEN. As I recall, in the article that appeared in the paper, a Mr. Larry Meeker, who is an oil consultant, or an oil producer, estimated conservatively about $1 billion of oil would be covered by the Skiatook Lake.

I noticed that in Senator Boren's remarks which I read for the record. He talked about the need to make ourselves energy independent.

What studies have you seen that would indicate or contradict Mr. Meeker's estimate of $1 billion worth of oil in the area that would be flooded?

Mr. HARMAN. Mr. Chairman, prior to the negotiation with the Osage Tribe for the price associated with the subordination, the corps contacted with a well-known geophysical petroleum consultant to evaluate the value of the oil.

I might point out at this time that the subordination is not a purchase of the oil. The oil still belongs to—that is, the mineral rights still belong to the Osage Tribe.

Senator COHEN. But Mr. Meeker indicated that the price of oil would have to rise to about $100 a barrel to make it feasible to get it out by platform drilling and slant technicians.

Mr. HARMAN. I believe there is a basic disagreement as to the total value of the oil.

Senator COHEN. But first you said that we are not taking the oil anyway and it is still for the tribe, but you are going to flood it and you are going to get it out later.

Mr. HARMAN. Irrespective of the potential for the withdrawal of the resources, there are methods and techniques that still can be used to withdraw the oil.

It, basically, is an economical choice in the minds of each operator or each lease owner as to the merits of continuing production under the conditions of the lake in existence.

Senator COHEN. Do you dispute what Mr. Meeker has said; that there is about $1 billion of oil in the area that would be flooded? And also, it would cost about $100 per barrel in order to make it feasible for a producer to go in and take it out by whatever means?

Mr. HARMAN. The mineral appraisals that were done for the Government would dispute the billion dollar value.

Senator COHEN. What does the Federal Government's estimates say?

Mr. HARMAN. The Federal Government's estimate is less than $10 million.

With respect to the price of withdrawing the oil, I do not have sufficient information to put a price tag on that. I believe it is considerably less than $100.

Senator COHEN. Mr. Hall indicated that you could not use secondary and tertiary recovery methods because of the unplugged and uncapped wells which would prevent that.

Mr. HARMAN. That is the judgment of one oil consultant. I do not have the background to contest that.

Senator COHEN. I want to be sure that we are not making a mistake similar to that made in the Teton Dam, so that we have to come back here a couple of years from now and find that adequate studies were not done and that we have invested a lot of money and have endangered people in the process.

Mr. HARMAN. I would like to add to Mr. Bayless' testimony in that regard. There are only two known wells and those are in the vicinity of the embankment of the dam and those are approximately three-fourths of a mile from the dam.

We have considerable experience in the other lakes that the corps has built in Osage County. We have encountered no adverse effects or no questions with respect to the structural integrity of any of those reserviors.

In the case of Ogagoo, which is approximately 30 miles away, we capped several thousand wells. In the case of Birch Lake and Craw Lake we capped several hundred wells. That has had no adverse effect whatsoever on the dam. We have no questions about the structural integrity of the dam.

Senator COHEN. When Senator Bellmon introduced S. 2407 in the last Congress it would have authorized condemnation proceedings not only for Skiatook but also for the Candy Creek project.

A memorandum prepared by the Osage Tribal Council last year also indicated that the corps anticipates projects on San Creek and Shilder Creek. It is my understanding that some work may have been done on Candy Creek already but none on either San Creek or Shilder Creek. S. 1370, the bill before us today, only authorizes condemnation proceedings with respect to Skiatook.

What plans does the corps have with respect to these other three projects and what is the status of construction on the three?

Mr. HARMAN. Mr. Chairman, all land required for the Candy Creek project has been acquired with the exception of the mineral rights of the Osage Tribe. Construction of an access road was completed, but no other construction contracts were awarded. Nothing further is contemplated on Candy Creek and there is no authority to acquire any interest in mineral rights of the Osage Tribe.

Construction at Sand and Shilder Lake has never been started and no funds have been appropriated to initiate these projects.

Senator COHEN. In order for you to go forward, you must have negotiations with the tribal council so far as the value to be paid for the condemnation; right?

Mr. HARMAN. Right.

Senator COHEN. Do you not intend to go forward?

Mr. HARMAN. At the present time there is no authorization or funding to go forward.

Senator COHEN. Assuming that there were authorization and funding, do you intend to go foward? Or, is it only a monetary restraint at this point?

Mr. HARMAN. We would move forward if we had appropriate legislative action to do that. It would require that separate legislation be approved for each of those lakes for us to proceed to acquire the mineral rights as has been proposed here with regard to the Skiatook Lake.

Senator COHEN. Have you requested or are you seeking legislative authority to go forward?

Mr. HARMAN. Not at the present time.

Senator COHEN. So, it is not only a question of money, it is a question that you do not have the intention of going forward?

Mr. HARMAN. That is correct.

Senator COHEN. When these projects were last evaluated for cost-benefit ratios, the question was: Will there be a revitalization of this project in the event that you do decide to seek legislative

authority and appropriated funds? Then, will you reevaluate for a new updated cost-benefit ratio in light of the current oil prices?

Mr. HARMAN. Yes, sir. The cost benefit ratio would have to be updated with current oil prices prior to any further action.

Senator COHEN. At this point, do you have any updates on your own or are you just putting that on hold?

Mr. HARMAN. We update annually with respect to each project. That update is done based on current construction scales and on our experience with real estate acquisition.

Senator COHEN. Could you submit copies of the updated analyses so far as cost-benefit ratios are concerned?

Mr. HARMAN. Yes, we would be happy to do that.

Senator COHEN. Without objection, that material will be inserted in the record at this point.[1]

That is all we have. I want to thank you very much.

We now have Ted Koenig, Acting Director, Office of Trust Responsibilities, Department of the Interior.

Mr. Koenig, do you want to come back to the witness table?

STATEMENT OF TED KOENIG, ACTING DIRECTOR, OFFICE OF TRUST RESPONSIBILITIES, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY FRANKLIN KEEL, ACTING LEGISLATIVE COORDINATOR, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

Mr. KOENIG. Thank you, Mr. Chairman.

Mr. Chairman, I would like to introduce Mr. Frank Keel, Office of Congressional Liaison for the Bureau of Indian Affairs. He will read the prepared statement of Mr. Roy Sampsel, Deputy Assistant Secretary, Department of the Interior.

Mr. KEEL [reading].

Mr. Chairman, I am pleased to present the views of the Department of the Interior on S. 1370, a bill to authorize the Secretary of the Army to acquire, by condemnation proceedings, or otherwise, such interests in the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians needed for Skiatook Lake, Osage County, Okla.

We have no objection to the enactment of S. 1370 if it is amended as suggested in our report to your committee.

S. 1370 would authorize the Secretary of the Army to acquire a subordination of the mineral interests owned by the Osage Indian Tribe, or held in trust for them, to the extent necessary for the construction of works relating to Skiatook Lake and for operation and maintenance of the lake as a part of the Verdigris River and tributaries project authorized by the Flood Control Act of 1962, 76 Stat. 1180.

The Flood Control Act of 1962 authorized the Skiatook Lake project. The United States has acquired all of the surface and mineral rights necessary for construction of the Skiatook Dam.

The U.S. Corps of Engineers has not, however, been able to complete the project because, without subordination of the Osage's mineral rights, the reservoir cannot be filled.

Legislation is necessary to allow the corps to acquire this interest because the Osage Allotment Act of 1906 specifically prohibits the selling by the Osages of their mineral interests. The mineral interests that the corps is seeking to subordinate are currently held by the United States in trust for the Osage Tribe.

The tribe's basic economic resource is the development of these mineral interests, particularly in the area of oil and gas production.

Since the introduction of this legislation in June, we understand that the tribe and the corps have reached an agreement on the terms of such an acquisition, including the payment of $7.4 million to the tribe.

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[1] Not received at time of printing.

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There is some question, however, about whether the tribe has the authority to enter into such an agreement.

In our report, we have recommended an amendment that would not only give the tribe authority to work with the corps, but would also specifically state how the compensation would be distributed to the tribe and would clarify the fact that the compensation is intended as a final settlement of the matter.

This concludes my prepared statement. I would be happy to answer any questions you or members of the committee may have.

Thank you.

Senator COHEN. Thank you.

I would point out that the materials in our committee files surrounding this entire matter reflects rather well upon the Department of the Interior.

The Department gave strong support to the Osage Tribal Council last year in the disagreement that came about as a result of the introduction of the bill. I think that support is now reflected in the kind of agreement that has been reached between the corps and the tribal council.

I have two questions.

Has the Department reviewed the agreement of the Osage Tribe and the corps on this Skiatook project and, if so, what is the Department's position with respect to the fairness of the compensation?

Mr. KOENIG. I would refer that question to Mr. Keel.

Mr. KEEL. Mr. Chairman, I understand that the agreement was supported and recomended by the minerals manager at the Osage agency. He is the officer in charge for the minerals interest.

Senator COHEN. From that, can I conclude that the Department of the Interior finds the compensation to be fair?

Mr. KOENIG. That is correct. Mr. Barker is the minerals chief at Osage. Incidentally, the superintendent from Osage as well as the area director are in attendance today.

Senator COHEN. Given the recommendation of the Department, in your judgment, is there going to be any judicial review required of this entire matter?

Mr. KOENIG. We would have to take a closer look. I do not believe so, in my opinion. I would not envision any judicial proceedings.

Senator COHEN. Has legal counsel to the Department indicated that there would have to be judicial review in subordination of these rights?

Mr. KOENIG. No.

Senator COHEN. That is all we have at this time. We want to thank you.

Our final witnesses are Mr. Ralph Adkisson, tribal council member, Osage Tribal Council. He will be accompanied by Mr. George Daly, who is the tribal mineral consultant in Tulsa.

Then we have one final witness to appear subsequently.

STATEMENT OF RALPH R. ADKISSON, TRIBAL COUNCIL MEMBER, OSAGE TRIBAL COUNCIL, PAWHUSKA, OKLA., ACCOMPANIED BY GEORGE D. DALY, JR., MINERALS CONSULTANT TO TRIBAL COUNCIL; AND SYLVESTER TINKER, CHIEF OF OSAGE TRIBE

Mr. ADKISSON. Thank you, Mr. Chairman.

I thank you for allowing us to present our view on this matter. I am an elected member of the Osage Tribal Council and I am privileged to have with me today our entire Osage Tribal Council together with Principal Chief Sylvester Tinker and Assistant Chief Ed Red Eagle.

Also we have the benefit of Mr. George Daly who is a noted petroleum engineer from Tulsa, Okla. and our tribal oil and gas consultant.

Further, we had the consultation of the Branch of Minerals of the Bureau of Indian Affairs in reaching the point where we could agree to this.

I would like to pick up on a point in referring back to S. 2407 in the last session of the Congress. The Senator will recall that the Osage Tribal Council did opppose that legislation.

Today we are in the situation where we have agreed to it. I would like to put some of those distinguishing factors before you.

In the last session, the bill did provide for the Candy Creek. That has been eliminated.

We have been assured, in writing, by Senator Boren that he will not support any legislation on the Candy area.

This is where some of the high figures that have been provided you were ascertained in the amount of oil and the tremendous amounts that the tribe might have suffered as a loss.

The present proposed bill only pertains to Skiatook and with the elimination of the Candy in this legislation and with the fact that we can drill according to certain agreements we have worked out with the Corps of Engineers—and I want to compliment the corps and their staff because since early February and March of this year at the instance of Senator Boren, we have worked diligently, both sides, in trying to arrive at this by looking at how many wells were actually producing and what areas would be affected and what production would be curtailed. We have looked at secondary and tertiary coverage systems.

The figures of $7.4 million, we feel, is a minimum amount and it is a satisfactory amount based upon the factual situation which is involved.

Another question, which was asked of a previous witness as to judicial review of this situation, is something that needs to be discussed.

This may occur because I would foresee that if the bill passes the Senate and if the House passes the bill, then the Corps of Engineers would obtain the services of the Justice Department and file the condemnation or the subordination cases in the District Court for the Northern District of Oklahoma.

At that point a challenge of the right to take can be made. Any challenge would not be made by the Osage Tribal Council because we have agreed on the figures and we will stand by what we have heretofore agreed to.

But there could be a judicial review at that point.

Senator COHEN. I am not sure that is entirely correct. My understanding of the condemnation proceedings would be that a private citizen has the right to challenge the condemnation proceedings, not as to the right of taking, but as to the compensation paid. But, I may be in error on that.

Mr. ADKISSON. There is a provision to challenge the right to take in a condemnation proceeding.

As I say, the Osage Tribal Council would not, but again, a private citizen or a member of the tribe could perhaps become a friend of the court and get involved in the lawsuit. I do not know. I do not have any indication that this will occur or not, but again, this is a question on the judicial review.

As to the matter of the authority of the council, I think, the 1906 act clearly gives the Osage Tribal Council authority over the operation of the mineral estate in the Osage Tribe.

Additionally, so far as the authority of the council as being the general governing body, that now has been established in a decision in the district court. In fact, it was in the Supreme Court of the United States where certiorari was denied.

They affirmed the tenth circuit court of appeals in *Logan* v. *Watt.* It is reported in 640 Fed. 2d, 269, which does give the council the general governing power of the tribe as well as the 1906 act gives us the complete control over the minerals.

We think that with some of the propositions that have been advanced by the Corps of Engineers, as to some of the problems that may be encountered, there may be some difficulties as stated.

With our agreements and with the amount of money that eventually was arrived at; we were satisfied with that in the Skiatook project alone.

Mr. Daly is present and he has presented a prepared statement to the committee as to some of the technical information.

I would ask that both my statement and his be inserted in the record.

Senator COHEN. Without objection, those statements will appear in the record in their entirety following the testimony of your panel.

I have a few questions.

The Corps of Engineers his requested an amendment to authorize the corps to acquire a subordination of mineral interests leased by the tribe or its trustees.

Does the tribal council have any objection to this amendment?

Mr. ADKISSON. No, as long as the committee understands fully that the funding or payments made to these particular lessees or operators have to be made out of corps funds and not a part of the $7.4 million.

Senator COHEN. That was cleared up during the previous testimony.

In the last Congress the integrity of the Skiatook Dam project was questioned by Mr. John A. Hall before the Osage Tribal Council. Obviously there are Osage members who live downstream from this project. Has the Osage Tribal Council made any independent study of this problem or will the council be satisfied with Corps of Engineers studies?

Mr. ADKISSON. We are familiar with the study that you refered to. We do not have an independent study on the matter. As I stated before, there may be some other problems that the corps may have. We have no control over that.

Senator COHEN. But you are satisfied to go forward with the Corps of Engineers study?

Mr. ADKISSON. Yes.

Senator COHEN. The Corps of Engineers testified here this morning with respect to the Candy Creek, Sandy Creek, and Shidler Creek projects.

Has the Osage Tribal Council taken any position on these projects? As I understand it, their plans are that they have no plans to go forward. Are you satisfied with that arrangement?

Mr. ADKISSON. No, sir. As time passes they will see that they must proceed with these particular projects.

I would presume that the tribe will have to look at the projects. We may oppose and maybe something can be worked out, but it depends upon the particular project that is involved.

Some of them may be for flood control or water supply systems for communities which certainly we would consider and have considered in the Skiatook plan. Maybe some of the other projects will not have this, as well as the increased production such as we may have in the Candy. We may have to oppose. We may be up here on a different side of the table with the Corps of Engineers at a later date on those particular projects.

We have had the assurances, and that is why we wanted to include this in the record to show the intent of this compromise and settlement that Candy was eliminated.

Senator COHEN. There has been concern expressed with respect to the possibility that the Osage Tribal Council might seek amendments to this bill relating to the composition of the Osage tribal government or eligibility of persons for benefits as members of the Osage Tribe. No such amendments have been presented to this committee.

May we be assured the Osage Tribal Council does not intend to seek any such amendments either in the Senate or in the House?

Mr. ADKISSON. Certainly, so far as the tribal council is aware, we would have no knowledge of anything of that nature. The payout is in accordance with the 1906 act and their amendments.

Senator COHEN. That is all the questions we have.

Mr. Tinker?

Mr. TINKER. I would like to say a few words.

Senator COHEN. Please proceed.

Mr. TINKER. As principal chief of the Osage Nation, this thing really hits me in the heart because some of the land that we are talking about is my homestead which is a little bit down the creek from this dam.

They came in some 65 years ago and drilled on my homestead. Those wells are still producing today.

This is a little bit different than maybe the Navajo or any other Nation because the Osage bought our reservation and paid cash for it and we got a deed for it which was delivered in the year 1882.

All of this could have been settled very easily. Why did not the corps ask the Osage whether or not they could have part of this without going through all this that we are going through now?

Why did they not give us the water rights? We could have sold the water to Sand Springs and to Tulsa and to different ones. We could have been in the water business and there would have been no cost to the Corps of Engineers at all. They would have put us into business.

They talk about the Candy Creek Dam. It is supposed to be dormant down there and they are not supposed to be doing any work. But I pass there at least four times a week going to Tulsa. I see the gates open. I see workmen going in there. I do not know what they are doing because I have never been in there because they keep the gate locked. But, I think they are working on the dam.

As for $7.4 million, that is not to my liking, but I think the council was a victim of circumstances. I think they had to go along because of the circumstances involved.

The same attorneys that represent the Corps of Engineers should be representing us. We are the children of the Bureau of Indian Affairs and the trust responsibility comes to that. They have not furnished attorneys for my people.

But what they are doing today is gratis. I do not think that is right. You people should really know exactly about these dams, like the Candy Creek. Now they are talking about the Sand Creek and they are talking about the Shidler. There will be 83,000 acres covered up by the Corps of Engineers.

I asked Colonel Harman at the last meeting that we had that if he were in my moccasins what would he do. He never did answer me that question. He is from Pennsylvania. I wish he would have answered my question as to really what he would do if he were in my shoes.

Whenever you give your birthright up that really is something. All these Osage people back here in the audience are involved. I think they are thinking the same thing I am thinking. It hits us hard.

We will not stop. They will go on as long as Senator Boren has promised that they cannot go on and he will not introduce the bill.

But what if Senator Boren is defeated sometime or other? Then, where would that put the Osage people?

I want it in black and white that they are not going to build Candy Creek Dam.

I do not know how that can be done, but I want you to know that I am speaking from the heart and from the heart of my people. We do not want any more to do with the Corps of Engineers. They have already done enough. We have a place for the people of Tulsa to swim and canoe and do all these nice things that they do. But they do not know who is paying the bills. It is the Osage people. They have taken all our good land where people used to farm. Everybody was happy before these people came in.

My Osage people are proud of their land. I hate to see it taken up.

Thank you.

Mr. ADKISSON. Mr. Chairman, I would like to make one remark as to a constructive suggestion for future legislation with regard to these matters.

The Corps of Engineers was authorized in 1962 for these projects. Yet, they acquired the land and started the construction earlier. When they come to the Congress to lobby for their legislation that they find that they now need, they have an equitable argument that they have spent $50 million already. Therefore, they say they

have to be bailed out. I understand that the legislative people have to feel this. But my suggestion is this.

Prior to the Corps of Engineers ever being able to put a spade into the earth it should be shown that they have acquired the surface rights as well as the mineral rights. To try to acquire the mineral rights in 1979 for something that was authorized in 1962, certainly is not fair.

Again, legal arguments to the Congressmen outweigh the Indian tribes arguments at that point.

Senator COHEN. I think that is an excellent recommendation. We have seen that over the years, where something gets started initially and then in retrospect it does not look quite as good as far as the cost-benefit ratio is concerned. We can talk about a dam in my own State which I am sure is familiar to the Corps of Engineers called Dicky Lincoln. No two words have generated less electricity and more heat in the Congress over the years.

Finally, after many, many years of debate and after spending about $11 or $12 million and perhaps even more in the preliminary investigations, it has been determined that it really does not measure up.

If you use a comparable interest rate, and obviously you are going to use 3¼ percent interest rate, it looks pretty good. If you use something like 6⅞ percent, it does not look quite as good. But if you use 8 percent, it looks even worse.

So, it depends on how these things are structured.

I think you make an excellent recommendation about not getting these things started unless you have everything before you with the acquisition of not only the surface rights but the mineral rights as well. That could only come about in terms of negotiation with the tribal council itself.

I want to thank you all for your testimony.

[The prepared statements follow:]

PREPARED STATEMENT OF RALPH R. ADKISSON, MEMBER, OSAGE TRIBAL COUNCIL

Mr. Chairman and Members of the committee: I am a member of the Osage Tribal Council and a practicing attorney in Tulsa, Oklahoma.

The Osage Reservation which is in Osage County, Oklahoma, and consisting of approximately 1,500,000 acres was purchased from the Cherokee Tribe of Indians on June 4, 1883. Payment was made from the Osages to the Cherokees as was authorized by an Act of March 3, 1873, 17 Stat. 530. The deed conveyed the Osage Reservation to the United States of America in trust for the use and benefit of the Osage and Kansas Indians. The Act of June 28, 1906, Chapter 3573, § 2, 34 Stat. 539, allotted the surface of the land with certain exceptions among 2,229 Osage Indians. Section 3 thereof reserved the mineral interests, consisting of oil, gas, coal or other minerals in communal ownership for a period of 25 years. Each allottee received a $\frac{1}{2229}$ interest in the Osage Tribal mineral income commonly referred to as an "Osage Headright Interest". The mineral extension has been extended several times over a period of years, the latest such extension continuing "in perpetuity" by Act of October 21, 1978, 92 Stat. 1660.

A similar bill to the proposed Act was introduced in the Ninety-sixth Congress (S.2407) and that bill was opposed by the Osage Tribal Council and ultimately did not pass the Senate. The proposed Senate bill No. 1307 provides for the acquisition by the Secretary of Army of the minerals owned by the Osage Tribe for the Skiatook Lake Project. The proposed Act does not provide for acquisition of minerals underlying Candy Creek as was provided in S. 2407.

Since early in 1981, the Osage Tribal Council and the U.S. Corps of Engineers have met in an attempt to negotiate a settlement on the Skiatook Lake Project. The numerous meetings resulted in agreements being reached, which agreements allowed certain drilling procedures to be used by the Tribe and its operators in the

public use area and in the Reservoir itself. Additionally, the analysis of the monetary loss of the Tribe was established to be $7.4 million and this figure was reached upon an exchange between the petroleum engineers for the U.S. Corps of Engineers and the Tribe's oil and gas Consultant, as well as the Branch of Minerals of the Bureau of Indian Affairs. This amount, $7.4 million, is a minimum figure the Osage Tribal Council will accept as and for compensation of the Skiatook Lake Project. For all of the above reasons, the Osage Tribal Council has unanimously agreed to support the proposed legislation.

PREPARED STATEMENT OF GEORGE D. DALY, JR., PRESIDENT, GEORGE D. DALY, JR., & ASSOCIATES, INC.

Committee members: My name is George D. Daly, Jr., president of Geo. D. Daly, Jr., & Associates, Inc., a petroleum engineering consulting firm located in Tulsa, Oklahoma. A résumé is attached. We have acted as advisor to the Osage Tribal Council in regard to mineral matters since 1968, and my professional experience in regard to oil and gas production in Osage County, Oklahoma, extends back to 1958.

The Tribal Council has requested we comment on the recently announced minerals settlement with the Corps of Engineers for land to be flooded by the Skiatook dam.

The settlement includes a cash payment of $7,400,000, the right of the Osage and its oil operators to continue to produce wells in all Public Use Areas (which before had been prohibited by the Corps), and to lease, drill and complete new wells in the Public Use Areas. This condition of settlement substantially reduced the land area affected by the dam. Additionally, Senator Boren agreed to withhold support for the Candy Creek project, which area contained the majority of the potential oil and gas reserves that had been mentioned in various news reports. Further, drilling will be permitted in the lake bed by the Corps, but this of course presents cost problems to the oil operator, and drilling of this nature will be dependent on the price of oil and possible oil reserve relative to the cost of drilling and producing a well in the lake. In effect, leasing, drilling and producing operations can continue on all but 1357 acres around the dam site.

Our study indicates wells producing an estimated total of 109 barrels of oil per day will be affected by the proposed dam. Of this 109 barrels per day, the Osage Mineral Trust receives one-sixth or approximately 18 barrels per day which, at current price, is $636 per day, or $232,140 per year. We estimate this oil production rate, under primary recovery methods of operation, would continuously decline and all existing wells would be abandoned within the next 30 years, absent commencement of waterflood operation. Using oil industry appraisal methods, the value of this production is, in our opinion, $1,800,000, or $100,000 for each barrel of current daily oil production. Another way of looking at it is that the oil in the ground attributable to the royalty interest, estimated recoverable by primary production methods over a 30-year period, has a value today of $ [illegible] per barrel. This takes into consideration the risk involved in actually rec [illegible] ; the estimated future amount of oil and the fact the income from the oil res[illegible] would be realized over a 30-year period.

Initially the Corps of Engineers refused to place any value on oil recoverable in the future by waterflooding. The Corps considered this type of oil reserve speculative and too risky to have current value. However, oil production in the Skiatook dam area is predominately from the Bartlesville sand formation, a zone which has been and is being successfully waterflooded. In fact a portion of the Turkey Creek Field waterflood unit will be affected by the proposed lake. Water injection in the Turkey Creek Field into the Bartlesville sand began in 1966 after 1,000,000 barrels of oil had been produced by primary recovery methods. As a result of water injection, oil producing rate increased from 69 barrels of oil per day to a maximum of 280 barrels per day. Oil production since 1966 through 1980 has been an additional 759,000 barrels, and we estimate an additional 540,000 barrels will be recovered during the project's economic life for a total recovery of 1,299,000 barrels after start of the waterflood.

Portions or all of approximately 20 quarter-sections, which have produced 2,000,000 gross barrels of oil primary recovery, will be affected by the lake relative to potential waterflood operation. Oil operators generally consider that waterflood recovery can range from 7/10ths to 1 barrel for each barrel of oil recovered by primary methods. Assuming potential waterflood recovery to be one barrel for each primary barrel, the Osage Mineral Trust would have a potential waterflood reserve of 345,000 barrels (1/6 of 2,000,000 barrels) which could take in excess of 50 years to produce. We have reviewed operating waterfloods in the Skiatook area and related

the actual performace of these floods to the potential waterflood recovery stated above to determine rate of oil recovery. Using this data and recognizing the risk and speculative aspects of the estimates and assumptions, the value of the potential waterflood reserve is, in our opinion, $3,100,000-$3,400,000, which (using the greater value) is approximately $9.85 per barrel, or 72 percent of the value assigned to the existing proven producing primary reserve.

Future lease bonus and lease rentals are difficult to estimate. The area in and around Skiatook has been producing since the early 1900's and a substantial amount of the area has been tested by drilling operations. Leasing in the area, while active, has not been overly competitive and the right to continue to lease Public Use Areas and the lake bed difficult to assess. We, at this time, would somewhat arbitrarily value future lease bonuses and rentals between $1,500,000 and $1,700,000.

In summary we have the following:

	Value range
Primary reserves	$1,800,000-$1,800,000
Secondary reserves	3,100,000- 3,400,000
Leasing and rental	1,500,000- 1,700,000
Total	6,400,000- 6,900,000

There is no way of placing a value on potential oil discoveries which might be made in the future, and the difference between the above values and the $7,400,000 settlement we consider ample compensation for this potential loss.

In our opinion the settlement appears reasonable and prudent.

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GEORGE D. DALY, JR.
PERSONAL HISTORY AND EXPERIENCE

BIRTHDATE: June 12, 1928, Milwaukee, Wisconsin

EDUCATION:

June 1946 — Graduated, Senn High School, Chicago, Illinois
June 1952 — B.S. in Petroleum Engineering, University of Houston, Houston, Texas

FAMILY: Married, three children

EXPERIENCE:

1952-1958 — Reservoir Engineer with The Atlantic Refining Company (now Atlantic Richfield Company)

Experience with Atlantic included three years in the West Texas-New Mexico Region and three years in the Oklahoma-Kansas Region.

Duties in West Texas and New Mexico included reserve estimates of Company-interest leases, evaluation of drilling prospects, reservoir feasibility studies for pressure maintenance or waterflooding, recommendations concerning producing well and remedial work, and representing Company before state regulatory bodies and engineering committees.

Duties in Oklahoma and Kansas included Area Reservoir Engineer for Southern Oklahoma and Secondary Recovery Engineer for Oklahoma-Kansas Region. Responsible for evaluation of drilling prospects, reserve estimates, reservoir engineering studies, gas purchase contracts, and unitization of Company properties in Southern and Western Oklahoma. As Area Secondary Recovery Engineer, reviewed all Company properties in Oklahoma and Kansas to evaluate waterflood potential; appraised properties of others for possible purchase; recommended, initiated and supervised drilling, completion, coring, and waterflood development operations of Company-operated projects and drilling of evaluation wells on properties the Company was considering for purchase, and followed and evaluated performance when projects were in operation.

1958-June 1966 — Associated with Herman H. Kaveler, Petroleum Engineering and Management Consultant

During my association with Dr. Kaveler, broad experience was gained in all phases of oil and gas operations. Participated in preparation and presentation of testimony for lawsuits, condemnation proceedings, arbitration proceedings, and state regulatory matters. Made various studies for the U. S. Bureau of Mines, Helium Activity, in regard to the storage of helium and development of regulations permitting exploration for hydrocarbons on previously restricted Helium Reserves; technical assistance to the U. S. Department of Justice; and evaluation of helium reserves for others in private industry.

Prepared evaluations of oil and gas properties for sale or purchase, estate tax purposes, Securities and Exchange Commission filings, and for financing. Participated in or made numerous unitization, waterflood and pressure maintenance studies and supervised development and operation of some of these projects.

June 1966-Present Petroleum Consultant

Routinely prepare oil and gas reserve reports and property appraisals for clients for financing, Securities and Exchange Commission filings, purchase and sale of properties, drilling prospects, estate taxes, and depletion and depreciation. Retained by various independent oil and gas producers to present expert testimony at contested state oil and gas regulatory hearings. Have worked with attorneys and accountants on litigation concerning practices of the industry, joint interest accounting, operating expenses, condemnation proceedings for various clients, including the U. S. Department of Justice. Provide advice and counseling to firms or individuals outside the oil and gas industry but involved with oil and gas producers. Routinely provide advice on well drilling and completion, well workovers and recompletions, waterflooding, pressure maintenance, unitization and associated economics for various clients and represent them at meetings and hearings. Experienced in negotiating gas well gas and casinghead gas sales contracts, farmout agreements, operating and unitization agreements.

Provide management and petroleum engineering supervision, including all bookkeeping, land, drilling, Federal Energy Regulatory Commission, and regulatory commission functions, including compliance with the Natural Gas Policy Act of 1978, for oil and gas working interest owners with leaseholds in Oklahoma, Texas and Kansas.

Retained as advisor to the Osage Tribe of Indians in regard to the management, leasing, exploration, development, and overall operation of the 1,500,000-acre Osage Mineral Estate which is held in trust by the United States through the Bureau of Indian Affairs, Department of the Interior.

Reservoir appraisal and evaluation experience has geographically ranged from Canada to offshore Gulf Coast to Peru.

Past member Governor of Oklahoma's Advisory Council on Energy.

Registered Professional Engineer No. 6975 (Oklahoma).

PROFESSIONAL ORGANIZATIONS:

Society of Petroleum Engineers of AIME
Independent Petroleum Association of America
The Natural Gas Men of Oklahoma
Oklahoma Independent Petroleum Association

Senator COHEN. We now have Mr. Joseph Shunkahmolah. Osage tribal member, Hominy, Okla.

Welcome, Mr. Shunkahmolah.

STATEMENT OF JOSEPH SHUNKAHMOLAH, OSAGE TRIBAL MEMBER, HOMINY, OKLA.

Mr. SHUNKAHMOLAH. Thank you, Mr. Chairman.

How much time do I have?

Senator COHEN. Start and see how long you go.

Mr. SHUNKAHMOLAH. I want to thank you for this opportunity.

I am Joseph Shunkahmolah, Jr., fullblooded member of the Osage Tribe. I am from Hominy, Okla.

I would like to give you some background on myself. I am the first fullblooded Osage to complete a degree, a college degree after seeing that my two sons got their bachelors'. Then I went back as a fullblooded Osage and I was 50 years old. I went back and I acquired my degree fron the Oklahoma State University.

I got a P.E. degree in health and recreation. My wife also is a loyal servant to the Government for 27 years. She recently retired from Government service in the Bureau of Indian Affairs.

Presently I have 14 hours on my master's degree from Oklahoma State University.

My youngest son is in the doctoral program at the Oklahoma University. My other son has just recently met all requirements for his master's degree from the Oklahoma University and he has accepted a fellowship to attend there, beginning next semester at Oklahoma University.

I have taught school. I am explaining all of this because I want to refer back to this a little bit later on.

I worked with the Government for about 17 years in the Bureau of Indian Affairs and in the Job Corps. So, right now I am in temporary retirement.

I want to thank you for the opportunity of being here. I come here as a fullblooded Osage, recognizing that I have a portion of the headright estate belonging to the entire Osage Tribe.

In essence, what I am saying is that the tribal council and the chief do not own all the oil royalties and all the headrights. Therefore, I was also sent here to represent Mr. Logan. I am sure you will remember LeRoy Logan. I am a delegate and representative of the Osage Nation organization and the Osages for Equal Representation whose members are one-quarter or more of Osage blood.

These people who are in the equal representation organization are disenfranchised from the Osage Tribe because they do not hold any property according to the oil estate. They are not recognized by the council or the chief or any of the representatives thereof as Osages until their parents die. I am sure that you are familiar that whenever their parents die they inherit and they become a member of the Osage Tribe.

Among these people is my son, who is a schoolteacher. He has taught school for 6 or 8 years and then has come back to the Oklahoma University to get his master's degree and to go into the doctoral program in education.

This type of a young man can vote for you. They can vote for the President of the United States, but they cannot come to their own country and vote for these men here in the audience. They do not have a voice. They do not have a vote.

So these are the people I am representing.

The medal I am wearing around my neck here gives me the recognition as the hereditary chief of the Osage Tribe. This was given to my people who were chiefs 180 years ago. We are taking this to the Smithsonian Institution this afternoon.

The people I come here to represent are saying that, in essence, the Osage Tribal Council does not control the entire oil and mineral estate. Each one of them has a portion just like I do.

I have not given them any authority to sell my share of the property behind the Skiatook Dam.

I remember, earlier in the 1940's, when these very same gentlemen here; that is, the Corps of Engineers came. They came to my parents. They had a meeting. They said:

> We are going to condemn and we are going to dam up the Arkansas River and we need your land because people downstream need water to drink. Some guys need to go swimming and ski and some want to put out a sailboat and have a few races down there and fish a little bit.

But the biggest thing they said is that they are going to have drinking water for people in that area and they are going to have platform drilling and they are going to have slant drilling.

Today that water is so salty. That is what we are trying to tell the engineers now. If you build the Skiatook Dam, then the same thing is going to result there because you are going to cover nearly 16,000 prime oil well properties which has not been plugged properly. There is salt water. You have the old oil wells.

I worked for the Osage Tribal Mineral Department. I know that these wells have not been properly plugged. The same thing is going to happen.

Today you have ruined all that land. I do not mean you, Senator Cohen.

Senator COHEN. I was not here 40 years ago.

Mr. SHUNKAHMOLAH. Yes; but they are in the same organization as before.

Today you do not see platform drilling. You might in some other counties, but not in Osage County. You do not see any slant drilling there.

But nevertheless that was the same idea of putting in the Keystone Dam. The same thing will happen.

I came here representing the Osage Nation organization as a representative of myself and a shareholder, and as a shareholder in the Osage estate, I would like to read this letter and submit this as part of the record.

This is from LeRoy Logan, chairman, the Osage Nation Organization. Mr. Logan is ill at this time. He could not attend as well as some of the other people who have sent me here.

I am here representing descendants of Black Dog No. 1 and Chief Black Dog No. 2, and also descendants of the John Oberly Great Osage fullblooded chief who died a few years back.

His descendants have asked me to speak for them here. This letter is to the Senate Select Committee on Indian Affairs and is regarding the Skiatook Dam.

I will read it into the record.

It says:

Gentlemen: The Osage Nation Organization, comprising only Osage Indians of one-quarter of more degree, adamantly opposes S. 1370. There are several bases for our opposition.

First is the economic factor. The negotiated settlement provides for a payment of only $7.4 million. According to former Interior Secretary Andrus (who recommended against the Skiatook Dam), at 1980 prices, the estimated 20 million barrels of recoverable oil remaining in the Skiatook Lake basin are valued at $800 million from which the Osage Tribe would receive at least $130 million in future royalties.

Second is the fact that the minerals are the property of the Osage Nation of Indians. The so-called Osage Tribal Council represents only an entity called the Osage Tribe of Oklahoma, both of which were created by the 1906 Osage Allotment Act. Thus the true owners of the minerals have not been properly represented in the negotiating process.

Third is the variety of dangers presented by wells which have not been properly plugged or capped, if at all, and many of which are unrecorded. The pressure of water impounded behind the dam could well cause salt water and other pollutants to migrant into the groundwater supplies below the dam.

The same pollutants could also surface in the Lake thereby rendering its water just as useless as that of Lake Keystone. We well remember that the Corps of Engineers and others touted Keystone as necessary to solve the future water needs of a growing Tulsa.

Perhaps most serious is the danger to the integrity of the dam structure. These wells, according to expert testimony, pose a worse threat than the factors which resulted in the Teton Dam disaster.

Although the matters we have raised do not constitute an exhaustive list of our reasons for opposing Skiatook Lake, we nonetheless feel that they are more than sufficient to justify the abandoning of the Skiatook Lake project.

Not only would this constitute proper trusteeship by the U.S. Government toward Osage Indians, it would also save the government many dollars at a time when it is increasingly difficult to find ways to cut Federal spending levels.

We thank you for this opportunity to present our views and ask that this letter be entered into the Congressional Record pertaining to the Skiatook Dam.

We do not approve of the Congressional meeting pertaining to this subject to be held on December 1, 1981, as it does not give our Osage people time enough to appear in Washington, D.C., and ask that it be cancelled or postponed to allow time for our people to be in Washington, D.C., at a later date or we request that a delegate from your committee come to Osage County or somewhere near so that we might discuss the issue and that you might get a better perspective of the Osage Tribe of Indians' real feelings in this matter and our concern for this problem.

The letter is signed by LeRoy Logan, chairman of the Osage Nation Organization.

Senator COHEN. What is the date of that letter?

Mr. SHUNKAHMOLAH. November 20, 1981.

Senator COHEN. Do you know whether or not Mr. Logan was concerned principally about the governmental status of the Osages?

My understanding was there were conversations carried on between the staff and his attorney or legal counsel and their principal concern seemed to be centering around the governmental status of the Osages. But they were concerned that this bill will contain some amendment that might try to affect the status of the Osages.

Mr. SHUNKAHMOLAH. What the problem was is this, if you talk about $7.4 million, then to anyone sitting in here $7.4 million looks pretty good.

But whenever you take that $7.4 million and divide it up into 2,229 shares and then divide each share into a fraction of descend-

ants of those 2,229 original headrights, then you do not have very much money.

I think it is broken down into possibly $3,000 for each 2,229 shares. You break the $3,000 down into fractions and you come up with some people getting possibly $100 or $200.

Where will this get you today? Some of these men right here have come here on tribal money. There are other people who come here who have a full share. I think last time it was near $10,000.

You ask them today how much of that $10,000 they have left. I do not think there are many of our Osage people here who have too much. I have $1.25. I have to wait until I get some funds. I am living on credit until I get back to Oklahoma and they will send me some more funds to come back home on.

That is how I got here; by donations from these various people who were mentioned here. That is how I came to represent them today and represent myself as a shareholder of the mineral estate of the Osage Tribe.

Another thing which has been bothering the Osage Tribe is this.

Senator COHEN. I am a little confused. You indicated that you have no voting rights. Did you cast a vote in tribal council itself?

Mr. SHUNKAHMOLAH. Yes, I have a vote. What we are asking for is this. In your election one man has one vote. Some of these people in the audience have four or five headrights and they get five full votes. I have only one-third of a share so I have one man with one-third of a vote. So I have to get two other guys with one-third so the three of us can make one vote.

This is unconstitutional.

Like I said, I am going to refer back. I have been taught and it has been pounded in my head about the democratic society that we are living in. Then the Corps of Engineers and the Congress and our own councilmen come and want to condemn our land.

When you talk about subordination, you have it there. I am saying that subordination is a smokescreen for condemnation.

But I want to thank Congressman Jones. He came out and said they were going to condemn the land. When you talk like that and you push and push, then it is time for us to push back.

I have come here in all sincerity. I came here to say that our people have not been consulted by the council. The council and the chief does not own all of that. I am concerned. I was not talked to. My sisters are concerned because they were not talked to. The people I am representing here today were not talked to.

So, if we were living in Russia or Japan or some of those totalitarian states, I could understand that you could come here and steal and take away our land without consulting us.

But to my knowledge we are living in a democratic society.

My kids teach school. They have had ground into their student's head the democratic way of living.

I have a brother who shed his blood and died on foreign soil protecting the democratic society. He died in action fighting for the United States of America.

Here we are today. Is this what we are fighting for? Is this what we are sending our Indian boys over there to die for?

We have had this land since the 1600's and we are still living in a civilized society. But what I am saying is this, if this is what the

democratic society is all about, then I will apply for a passport somewhere else. When you can just push us around and take what we have, this is not fair.

So, we are saying that we do not want this legislation passed until we, as owners of the Osage mineral estate, are consulted with and by or, if you come and meet us, or give us time, we will be here.

Senator COHEN. I think the difficulty comes about in the way in which the council was constructed back in 1906.

Mr. SHUNKAHMOLAH. That is right. We realize that. That does not give them the power——

Senator COHEN. No, but it gave them the voting power depending on the shares they held.

Mr. SHUNKAHMOLAH. Yes; even your own President back there in 1865, that is, Mr. Lincoln said: "Public opinion is the thing that makes good Government." If we do not have our opinion, then this council is not going to operate properly.

There is another thing. When prices go up, then whatever commodity we have, the prices on it should go up, too. So we are saying that whenever you act contrary to this alternative, then the people feel that we are being exploited and cheated. We do not think $7.4 million is enough. We feel that we should get our fair share of the profits.

I have been around to college and I have played on a football team there and had a few bruises.

Senator COHEN. You have not had as many bruises as I have.

Mr. SHUNKAHMOLAH. I have had college life and all of this democratic stuff poured into my mind. I go home and I bring up my children. Today, one is in a doctoral program and they too will go out and talk about constitutional rights and the democratic way of life and the democratic society and how we are supposed to be fair and equal.

But we find right here in our own tribe that we are being coerced and our land is being taken without consultation. It is not good business. It is not right and fair to the Osage people. So, we are asking that this bill, S. 1370, be rescinded or else get some of the real Osage Indian fullblooded input.

You can look at our tribal council. Mr. Adkisson and Mr. Martin and Mr. Colby, and even Chief Tinker could go out here on the street and disappear. I go out there and I stick out like a thumb.

The only fullblood we have here is Mr. Red Eagle and his uncle and nephew.

I would say there is a conflict of interest on our tribal council when you have an assistant chief—we cannot go to work if one of our relatives is in charge of a department in the Bureau of Indian Affairs. But we certainly can do it here. We have a nephew and uncle on the tribal council. So you know you have two votes against anybody who comes up there.

Therefore, I feel that we are being exploited and coerced. I think we are being cheated out of our fair share of the profit by our own tribal council.

So, I say again that we do not want this dam. We would rather have the land. We do not want this dam at all. If you are going to

take it away from us, then you come down and meet with us and ask us what we want.

These men are learned men. Mr. Martin is an attorney. Mr. Adkisson is an attorney. As attorneys they made $285,000 each from the Osage Tribe. So, therefore, they are sitting good.

What are you going to do with $300 or $400 when this thing is split up so many ways?

You have probably thrown dice for $600 and you play cards.

Senator COHEN. I would not confess that here.

Mr. SHUNKAHMOLAH. You would like to have that back, would you not?

Senator COHEN. Yes; I would like to have the money back.

Mr. SHUNKAHMOLAH. You shoot craps until you get it back; would you not? So you can lose money shooting craps and you can lose money with the high interest rates and the way the prices are going up. You can go $600 an ounce. Gasoline is $1.42 a gallon. One quart of oil is $1 to $1.25. So, when prices go up then the commodities we have for sale naturally should go up also.

If they do not, then the democratic society is passing the true Osage people by.

Thank you very much.

Senator COHEN. Thank you for a powerful statement.

That concludes this morning's hearing. The committee record will stay open 2 days in order to include any other materials for the record.

We stand adjourned.

[Whereupon, at 11:05 a.m., the hearing was adjourned.]

APPENDIX

OSAGE TRIBAL COUNCIL-CORPS OF ENGINEERS AGREEMENT

APPENDIX A

SKIATOOK LAKE, PUBLIC USE AREAS—OIL AND GAS OPERATIONS, RESTRICTIONS, AND CONDITIONS

A. *Special Requirements*—The following special and standard requirements are in lieu of surface damage payments and must be met to the satisfaction of the Government before drilling for oil or gas is permitted in a public use area on Skiatook Lake.

1. If park roads are used, the lessee will pay all damages caused by his activities. A surety bond will be required.

2. A temporary 3-strand barb wire fence will be constructed around the drilling site prior to the commencement of drilling.

3. Producing well locations will require a 6-foot chain link fence topped with 2 strands of barb wire. Additional vegetative or board fence screening will be installed to provide an appearance aesthetically compatible with the recreation area and to reduce noise pollution. All fencing and vegetative costs will be borne by the lessee.

4. Tank batteries normally will not be allowed in the public use areas, but special cases shall be presented to the District Engineer for consideration.

5. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the use and occupation of the premises for exploration, development, production, and removal of said oil, gas, coal, or other minerals, or for damages to the property of the owner or its lessees, or for damages to the property or injuries to the person of the owner's or lessee's agents or employees, or others who may be on the premises at their invitation or the invitation of any one of them; and the United States shall be held harmless from any and all such claims.

6. All lead lines and power lines to wells in public use areas will be buried where feasible.

B. *Standard Requirements*—The mineral owner, lessee, and/or operators shall also comply with the following standard requirements.

1. Protect all storage tanks, pits, and related facilities from flooding to elevation 729.0 feet, national geodetic vertical datum.

2. Operating wells in the pool area shall be provided with appropriate lighting so as not to constitute a hazard to navigations.

3. Limit the drill site to the area necessary for the drilling operation and shall be no longer than 1.5 acres.

4. Remove from the drill site all materials, debris, chemicals, petroleum products, etc., within 36 to 60 days of completing the walls as a producer or as a dry hole. This requirement also applies to wells that are shut-in for a pipeline contract.

5. Observe the following restrictions with regards to sludge pits:

(a) No open sludge pits are permitted on the area except during drilling operations.

(b) The sludge pit walls will be constructed so that the top of the dike is at 729.0 feet, national geodetic vertical datum. No sludge pits shall be used below top of flood control pool except removable steel sludge pits.

(c) Pits and tanks for drilling mud or deleterious substances used in drilling and completion of wells shall be constructed and maintained so as to prevent pollution of surface and subsurface water.

(d) All mud and deleterious substances used in drilling and completion of the wells shall be removed from Government property. All pits used to contain these substances shall be filled and reshaped to natural contours as nearly as possible. Reclamation to be accomplished within 6 months of completion and shall include tilling, seeding, and fertilization of all disturbed areas.

6. Observe the following restrictions with regard to roads during exploration:

(a) If recommended by the project manager, existing roads and trails are to be used as access to the drilling site.

(b) Construct and maintain new roads that have been approved by the project manager, so as to minimize erosion with adequate culverts and/or other erosion prevention structures.

(c) In the event of a "dry hole", any new road construction sites will be returned to as near natural contour as possible, unless the project manager indicates in writing that the road is to remain. Reclamation to be accomplished within 6 months of completion and shall include tilling, seeding, and fertilization of all disturbed areas.

SKIATOOK LAKE, RESERVOIR AREAS OTHER THAN PUBLIC USE AREAS—OIL AND GAS OPERATIONS, RESTRICTIONS, AND CONDITIONS

Mineral owners, lessees, and operators shall adhere to the following standard requirements to the satisfaction of the Government in developing the oil and gas potential of reservoir areas other than public use areas on Skiatook Lake:

1. Protect all storage tanks, pits, and related facilities from flooding to elevation 729.0 feet, national geodetic vertical datum.

2. Operating wells in the pool area shall be provided with appropriate lighting so as not to constitute a hazard to navigation.

3. Limit the drill site to only that area necessary for the drilling operation and shall be no larger than 1.5 acres.

4. Remove from the drill site all materials, debris, chemicals, petroleum products, etc., within 30 to 60 days of completing the well as a producer or as a dry hole. This requirement also applies to wells that are shut-in for a pipeline contract.

5. Observe the following restrictions with regard to sludge pits:

(a) No open sludge pits are permitted on the area except during drilling operations.

(b) The sludge pit walls will be constructed so that the top of the dike is at 729.0 feet, national geodetic vertical datum.

(c) Pits and tanks for drilling mud or deleterious substance used in the drilling and completion of wells shall be constructed and maintained so as to prevent pollution of surface and subsurface water.

(d) All mud and deleterious substances used in the drilling and completion of the wells shall be removed from Government property. All pits used to contain these substances shall be filled and reshaped to natural contours as nearly as possible. Reclamation to be accomplished within six (6) months of completion and shall include tilling, seeding, and fertilization of all disturbed areas.

6. Observe the following restrictions with regard to roads during exploration:

(a) If recommended by the project manager, existing roads and trails are to be used as access to the drilling site.

(b) Construct and maintain new roads that have been approved by the project manager, so as to minimize erosion with adequate culverts and/or other erosion prevention structures.

(c) In the event of a "dry hole", any new road construction sites will be returned to as near natural contour as possible, unless the project manager indicates in writing that the road is to remain. Reclamation to be accomplished within six (6) months of completion and shall include tilling, seeding, and fertilizing of all disturbed areas.

7. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the use and occupation of the premises for exploration, development, production, and removal of said oil, gas, coal, or other minerals, or for damages to the property or injuries to the person of the mineral owner's or lessee's agents or employees, or others who may be on the premises at their invitation or the invitation of any one of them; and the United States shall be held harmless from any and all such claims.

Appendix B–1

The estate taken for said public uses is the subordination of the oil, gas, coal, or other minerals as reserved for the Osage Tribe of Indians by the Act of June 28, 1906, ch. 3572,

34 Stat. 539, as amended, to the prior right of the United States to flood and submerge the same as may be necessary in connection with the construction, operation, and maintenance of Skiatook Lake, Hominy Creek, Oklahoma; Birch Lake, Birch Creek, Oklahoma; Keystone Lake, Arkansas River, Oklahoma; and Kaw Lake, Arkansas River, Oklahoma, as authorized by the Act of October 23, 1962, Public Law 87–874, 76 Stat. 1173, reserving to the Osage Tribe of Indians, its trustees, successors in ownership or assigns, all oil, gas, coal, or other mineral rights which may be used and enjoyed without interfering with the aforesaid right of the United States, and all appurtenant rights for exploration, development, production, and removal of said oil, gas, coal or other minerals; provided, however, that the type and location of any structures in connection with the exercise of said reserved mineral rights shall be subject to the prior written approval of the representative of the United States in charge of the project, which approval shall not be unreasonably withheld, provided further that no excavation shall be conducted on the land described without such approval as to the location and method of excavation; such restrictions being intended for and limited to the prevention of construction which would interfere with the operation of the project or constitute a danger to persons or property, as more fully described in Appendix A which is made a part hereof; and provided further that any exploration or development of said oil, gas, coal, or other minerals in and under said land shall be subject to Federal and State laws with respect to pollution of waters of the reservoir.

Appendix B–2

The estate taken for said public uses is the subordination of the oil, gas, coal, or other minerals as reserved for the Osage Tribe of Indians by the Act of June 28, 1906, ch. 3572, 34 Stat. 539, as amended, to the prior right of the United States to flood and submerge the same as may be necessary in connection with the construction, operation, and maintenance of Skiatook Lake, Hominy Creek, Oklahoma; Birch Lake, Birch Creek, Oklahoma; Keystone Lake, Arkansas River, Oklahoma; and Kaw Lake, Arkansas River, Oklahoma, as authorized by the Act of October 23, 1962, Public Law 87–874, 76 Stat. 1173, reserving to the Osage Tribe of Indians, its trustees, successors in ownership or assigns, all oil, gas, coal, or other mineral rights which may be used and enjoyed without interfering with the aforesaid right of the United States, and all appurtenant rights for exploration, development, production, and removal of said oil, gas, coal, or other minerals; provided, however, that the type and location of any structures in connection with the exercise of said reserved mineral rights shall be subject to the prior written approval of the repesentative of the United States in charge of the project, which approval shall not be unreasonably withheld, provided

further that no excavation shall be conducted on the land described without such approval as to the location and method of excavation; such restrictions being intended for and limited to the prevention of construction which would interfere with the operation of the project or constitute a danger to persons or property, as more fully described in Appendix A which is made a part hereof; and provided further that any exploration or development of said oil, gas, coal, or other minerals in and under said land shall be subject to Federal and State laws with respect to pollution of waters of the reservoir.

RESOLUTION
of the
OSAGE TRIBAL COUNCIL No. 25-651

WHEREAS,

1. The Osage Tribal Council supports H. R. 4926, as amended, which was introduced on November 6, 1981, which has been amended as shown by the proposed amendment in the nature of a substitute for H. R. 4926, and

2. The oil, gas, coal, or other minerals underlying the Skiatook Lake, Hominy Creek, Oklahoma, proposed project is held in trust by the United States of America for the use and benefit of the Osage Tribe of Indians, and

3. The Act of June 28, 1906, 34 Stat. 539, as amended, reserves to the Osage Tribe in perpetuity the oil, gas, coal, or other minerals, underlying the Skiatook Lake, Hominy Creek, Oklahoma, and

4. Upon the payment of $7,400,000 there shall be conferred upon the Secretary of the Army on behalf of the United States a subordination of such interests in oil, gas, coal, and other minerals owned by the Osage Tribe of Indians or held in trust by the United States for the benefit of the tribe, and the Secretary of the Interior, upon receipt of such payment, is authorized to disburse the proceeds of such payment to the Osage Tribe of Indians in accordance with applicable law: Therefore, be it

RESOLVED,

1. The Osage Tribal Council hereby recinds Osage Tribal Council Resolution No. 25-598, dated August 24, 1981, and

2. That the Council hereby agrees to accept the payment of $7,400,000 as compensation for the subordination of the Osage Mineral Estate, comprising approximately 12,000 acres to the top of the flood control pool at 729.0' relative to the Skiatook Lake, Hominy Creek, Oklahoma, and

3. That the Council agrees to the restrictions and conditions for oil and gas operations in the Skiatook Lake, Hominy Creek, Oklahoma, public use areas, and to the restrictions and conditions for oil and gas operations in the reservoir areas other than the public use areas, Skiatook Lake, Hominy Creek, Oklahoma, as agreed upon by the Corps and the Council through its Petroleum Engineering and Management Consultant, pursuant to the attached Exhibits A, B-1, and B-2, and made a part of this Resolution, as amended, and

4. The Council hereby supports H. R. 4926, as amended, which was introduced on November 6, 1981, which has been amended as shown by the proposed amendment in the nature of a substitute for H. R. 4926, which reads as follows:

BEST COPY AVAILABLE

A BILL

To authorize the Secretary of the Army to acquire, by purchase or condemnation, such interests in oil, gas, coal, and other minerals owned or controlled by the Osage Tribe of Indians as are needed for Skiatook Lake, Oklahoma, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

"That the Congress finds that--

Sec. 1. (a) Under the Act of June 28, 1906 (34 Stat. 539; P. L 59-321), the Osage Tribal Council is vested with authority to administer the Osage mineral estate and that such authority includes authority to agree upon compensation to be paid the Osage Tribe of Indians for the subordination to be acquired under the terms of this Act.

(b) The Osage Tribal Council and the United States Corps of Engineers have agreed that $7,400,000 should be paid to the Osage Tribe of Indians as compensation for the acquisition of the subordination of the oil, gas, coal and other minerals owned or leased by the Osage Tribe as is necessary for the construction of works relating to the Skiatook Lake and the operation and maintenance of such lake.

" Sec. 2. (a) Upon the payment of $7,400,000 as provided in subsection (b) of this section, there shall be conferred upon the Secretary of the Army on behalf of the United States a subordination of such interests in oil, gas, coal, and other minerals owned by the Osage Tribe of Indians or held in trust by the United States for the benefit of the tribe as are necessary for the

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construction of works relating to Skiatook Lake and the operation and maintenance of such lake as a part of the project for improvement of the Verdigris River and tributaries, Oklahoma and Kansas, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1180: P. L. 87-874).

(b) As compensation for such subordination, the Secretary of the Army shall pay to the Secretary of the Interior, on behalf of the Osage Tribe of Indians, $7,400,000. The subordination conferred by subsection (a) hereof is subject to the terms and conditions of an agreement between the Osage Tribe of Indians and the Secretary of the Army as set out in a resolution of the Osage Tribal Council numbered 25-651, dated December 3, 1981, together with appendices A (Public Use Areas); A (Reservoir Areas); B-1; and B-2.

(c) In the absence of existing authority, the Secretary of the Army is authorized to acquire, by purchase or condemnation, any leasehold interest in oil, gas, coal, and other minerals subject to subordination pursuant to subsection (a) of this section.

"Sec. 3. The Secretary of the Interior, upon payment by the Secretary of the Army of the amount authorized by section 1 of this Act, is authorized to disburse the proceeds of such payment to the Osage Tribe of Indians in accordance with applicable law.

"Sec. 4. Funds paid to the Osage Tribe of Indians under the provisions of this Act shall not be subject to the payment of attorney fees."

BEST COPY AVAILABLE

CERTIFICATION

I hereby certify that the foregoing Resolution was considered by the Osage Tribal Council at a duly called meeting at Pawhuska, Oklahoma, at which a quorum was present and that the same was adopted by a vote of Six (6) in favor, and None (0) against, this 3rd day of December, 1981.

Principal Chief

ATTEST:

Secretary

BEST COPY AVAILABLE

Correspondence Received for the Record

JAMES L DALY JR
2014 WEST BERRIDGE LN APT 6
PHOENIX AZ 85015

western union Mailgram

4=0004098203 09/20/81 ICS IPHRNCZ CSP WSHA
6022420357 MGM TDRN PHOENIX AZ 63 09-20 0125A EST

SENATOR COHEN
CHAIRMAN SELECT COMMITTEE ON INDIAN AFFAIRS
US SENATE
WASHINGTON DC 20510

I AS AN OSAGE ORIGINAL ALOTTEE ROLL NUMBER 680 I OPPOSE TO ENACTMENT OF S1340. I HAVE NOT BEEN INFORMED BY THE SOCALLED OSAGE TRIBAL COUNCIL OF ANY DECISION TO DISPOSE PARTITION OF THE OSAGE MINERAL E STATE.
MRS ESSIE LOGAN GRAHAM 2014 WEST BERRIDGE LN APT 6 PHOENIX AZ 85015

0127 EST

MGMCOMP

BEST COPY AVAILABLE

G ROUWALK
501 SOUTH PETTIT
HOMINY OK 74035

western union Mailgram

6-011896S283 09/20/81 ICS IPMBNGZ CSP WSHA
9188852884 MGM TDBN HOMINY OK 96 09-20 0403P EST

RECD SEP 22 1981

HONORABLE SENATOR COHEN, CHAIRMAN
SELECT COMMITTEE ON INDIAN AFFAIRS
U S SENATE
WASHINGTON DC 20510

IN REFERENCE TO SENATE BILL 1370 I AM A FULLBLOOD (4/4) MEMBER OF THE OSAGE TRIBE OF INDIANS OF OKLAHOMA, I AM MOST ADAMANT IN OPPOSITION OF THIS DETRIMENTAL BILL.

THE PASSAGE OF SENATE BILL 1370 WILL BE A HOLOCAUST FOR THE GRASS-ROOT FULLBLOOD MEMBERS OF THE OSAGE TRIBE.

THE PRESENT SO-CALLED OSAGE TRIBAL COUNCIL CONJURED THIS LEGISLATION UP TO BENEFIT THE WHITE PEOPLE ON OUR TRIBAL ROLL WITHOUT OUR KNOWLEDGE AND COUNSULTATION.

RESPECTFULLY,
MRS GLADYS ROUWALK, PRESIDENT
OSAGE ASSN INC

16105 EST

MGMCOMP

BEST COPY AVAILABLE

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

NOV 20 1981

Honorable William S. Cohen
Chairman, Select Committee on
Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This responds to your request for our views on S. 1370, a bill "To authorize the Secretary of the Army to acquire, by condemnation proceedings, or otherwise, such interests in the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians needed for Skiatook Lake, Osage County, Oklahoma."

We have no objection to the enactment of S. 1370 if it is amended as suggested herein.

S. 1370 would authorize the Secretary of the Army to acquire a subordination of the mineral interests owned by the Osage Indian Tribe, or held in trust for them, to the extent necessary for the construction of works relating to Skiatook Lake and for operation and maintenance of the Lake as a part of the Verdigris River and Tributaries project authorized by the Flood Control Act of 1962 (76 Stat. 1180).

The Flood Control Act of 1962 authorized the Skiatook Lake project. The United States has acquired all of the surface and mineral rights necessary for construction of the Skiatook Dam. The U.S. Corps of Engineers has not, however, been able to complete the project because, without subordination of the Osage's mineral rights, the reservoir can not be filled. Legislation is necessary to allow the Corps to acquire this interest because the Osage Allotment Act of 1906 specifically prohibits the selling by the Osages of their mineral interests. The mineral interests that the Corps is seeking to subordinate are currently held by the United States in trust for the Osage Tribe. The Tribe's basic economic resource is the development of these mineral interests, particularly in the area of oil and gas production.

Since the introduction of this legislation in June, we understand that the Tribe and the Corps have reached an agreement on the terms of such an acquisition, including the payment of $7.4 million to the Tribe. There is some question, however, about whether the tribe has the authority to enter into such an agreement. We therefore recommend that the following be added at the end of the bill:

> "The Osage Tribal Council, on behalf of the Osage Tribe of Indians, is authorized to enter into an agreement for compensation and to convey to the United States a subordination of such interests, not withstanding any prohibition in the Act of Congress approved June 28, 1906

(34 Stat. 539, et. seq.) as amended. The Secretary of the Interior is authorized to disburse such compensation to the Osage Tribe of Indians in accordance with applicable law. Such compensation shall release the United States from any liability concerning such interest."

This amendment would not only give the tribe authority to work with the Corps, but would also specifically state how the compensation would be distributed to the Tribe and would clarify the fact that the compensation is intended as a final settlement of the matter.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Roy H. Sampsel

DEPUTY ASSISTANT SECRETARY Roy H. Sampsel

Enclosure

DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310

Honorable William S. Cohen
Chairman, Committee on Indian Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on S. 1370, 97th Congress, a bill "To authorize the Secretary of the Army to acquire by condemnation proceedings, or otherwise, such interests in the oil, gas, coal, or other minerals owned by the Osage Tribe of Indians needed for Skiatook Lake, Osage County, Oklahoma." The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on this bill.

The title of the bill generally states its purpose. Specifically, the bill authorizes the Secretary of the Army to acquire by condemnation proceedings, or otherwise, a subordination of the oil, gas, coal or other mineral interests owned by the Osage Tribe of Indians or held in trust for the Tribe for lands necessary to operate and maintain the Skiatook Lake water resources project in Oklahoma.

The Skiatook Lake project, which was authorized by the Flood Control Act of 1962, P.L. 87-874 (23 October 1962), provides for the construction of a reservoir for flood control, water supply, water quality control, recreation, and fish and wildlife purposes at Hominy Creek approximately 19 miles northwest of Tulsa, Oklahoma.

All interests required for the Skiatook Lake project have been acquired with the exception of the oil, gas, coal and other mineral rights which were reserved for the use of the Osage Indian Tribe. The United States has acquired all of the surface and mineral rights necessary for construction of Skiatook Dam itself. The project cannot be put into operation, however, because without subordination of the mineral rights, the reservoir cannot be filled.

Under the Osage Allotment Act of 1906, 34 Stat. 539, P.L. 59-321 (28 June 1906), as amended, the Indians do not have the right to sell their mineral interests, although they may be leased for development. In such a situation, the normal procedure would be to initiate condemnation proceedings to acquire the necessary interest. Under current law, however, the United States is not authorized to condemn land or interests reserved to Indians by treaty without a clear expression of Congressional authorization to acquire such lands. S. 1370, with the

amendment proposed by the Department of the Interior, which would authorize the Osage Tribal Council to enter into an agreement and conveyance to the United States of a subordination of the minerals, would provide the specific Congressional authority necessary to acquire the interests necessary to complete the Skiatook Lake project.

The Government does not seek to acquire ownership of the mineral interests nor to prohibit their recovery. The Osage Indians will be allowed to exploit the minerals, however, the subordination will require the mineral recovery to be performed so as not to interfere with the construction, operation, or maintenance of the project.

The overall construction costs for Skiatook Lake are estimated at $89.1 million, based on October 1979 price levels. Work on Skiatook Dam is continuing and the total Government investment in the project to date is $55.7 million. Skiatook Lake will provide flood control, water quality control, water supply, recreation, and fish and wildlife benefits for 100 years at an estimated annual level of $6,932,000.

The Department of the Army recommends one technical addition to S. 1370. On page two, line one of the bill, the words "or leased by, or on behalf of, said Tribe" should be added after the word "tribe". This would further ensure that there was authority to subordinate the interests of any lessees of the Osage Tribe necessary for the operation of the Skiatook Lake project.

Without enactment of S. 1370, the Skiatook Lake project cannot be operated and the estimated benefits cannot be realized. The enactment of S. 1370, with the amendments proposed by the Departments of the Army and Interior, will allow the Osage Tribe to retain ownership of its mineral interests and also provide necessary water supplies for Oklahoma communities. The Department of the Army recommends the enactment of the bill with the aforesaid revisions.

Enactment of this legislation will not result in an increase in the budgetary requirements of the Department of the Army.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the Committee.

Sincerely,

STATEMENT RECEIVED FOR THE RECORD

Prepared Statement of the Osage Nation Organization

Mr. Chairman, my name is Rosa Jake and I am a member of the Board of the Osage Nation Organization and have been authorized to submit this statement to your committee on behalf of the Organization. I am accompanied by Ms. Hazel Harper who is also a member of the Board.

The Osage Nation Organization is a voluntary membership organization of persons of one-quarter degree or more Osage Indian blood. For many years the Osage Nation Organization has supported the enactment of legislation to provide for a democratically elected tribal government representing Osage persons of one-quarter or more Osage ancestry. Our records indicate that at least 800 persons of one-quarter or more Osage ancestry do not hold headrights and cannot vote for the minerals board. In a poll conducted in March 1976, 441 persons of one-quarter degree or more Osage blood voted in favor of the legislative proposal of the Osage Nation Organization, thus demonstrating very significantly the degree of support which our organization enjoys among the Osage people.

While the Osage Nation Organization favors the enactment of legislation to make possible the election of a democratic Osage tribal government, we do not believe that any matters involving the organization of Osage tribal government or the membership of the Osage tribe should be considered at these hearings. We appreciate the assurances which we have received both from the Senate Select Committee on Indian Affairs and the staff of the House Interior and Insular Affairs Committee that legislative proposals affecting Osage tribal government and membership will not be considered at this time. We urge that your committee in the near future consider the legislative proposal of the Osage Nation Organization and seek enactment of legislation which will allow the Osage people to elect a tribal government which can address their concerns and speak on behalf of their interests.

The bill which you are considering now, S. 1370, illustrates the need for such a government. The present Osage tribal council, the "minerals board," is elected by and represents the owners of the Osage mineral estate. As such it may legitmately speak for the headright owners. However, it has not been elected by and may not legitimately speak for the Osage people, for all those individuals regardless of headright ownership who are of a significant degree Osage ancestry. There is today no tribal governing body which can speak for the Osage people. Yet the Skiatook lake bill affects the Osage people, as well as the headright owners.

As long as there is no democratic tribal governing body for the Osage tribe, the Osage Nation Organization will continue to voice its concern when matters concerning the Osage tribe are handled and disposed of without meaningful consultation and consent by legitimate, authorized representatives of the Osage people. We feel that in supporting the establishment of such a governing body, we are fighting for both the survival of our Tribe and its institutions and the best traditions of American democracy. We ask for your help in our effort.

MATERIALS FROM THE 96TH CONGRESS RELEVANT TO THE SKIATOOK DAM PROJECT AND OTHER PROJECTS ON THE OSAGE INDIAN RESERVATION

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

DEC 4 1979

Honorable John Melcher
Chairman, Select Committee on
Indian Affairs
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

We strongly object to the enactment of the Osage minerals amendment to the Continuing Resolution, H.J. Res. 637.

The amendment would authorize the Army Corps of Engineers to acquire by subordination oil, gas, coal, and other minerals owned by the Osage Tribe necessary to permit the construction, operation, and maintenance of the Verdigris River and Tributaries project, Oklahoma and Kansas, authorized by the Flood Control Act of 1962 (P.L. 87-874).

Subordination of the Tribe's mineral interests would mean that the oil and gas could only be extracted if and in a manner which the Corps determines to be compatable with their project. It is not clear to what extent the Tribe's rights would be impaired and the potential cost to the United States if the amendment cannot be determined at this time.

The mineral interests that the Corps of Engineers is seeking control of are currently held by the United States in trust for the Osage Tribe. The Tribe's basic economic resource is the development of its mineral interests, particularly in the area of oil and gas production. Contrary to the finding of the Corps of Engineers in 1974, oil and gas production in the area that would be condemned is not diminishing. Because of the change in the price structures of oil and gas in the last five years, wells that were once plugged as economically deficient are now being reopened and new wells are being drilled in areas that were considered high risk.

Subordination or outright condemnation of the mineral interests involved would thus be a definite economic disadvantage to the Osage Tribe, as well as possibly being unwise in view of the current energy shortage. It should also be noted that the Tribe has already lost significant amounts of its subsurface lands to other Corps of Engineers' projects and that more such projects are being proposed, raising the danger that the Tribe's economic base could be seriously eroded.

The minerals property, which the Corps of Engineers propose to subordinate for the Candy Creek and Skiatook Reservoir, is held in trust by the United States for the Osage Tribe and is presently producing 780 barriels of oil a day. This same land has produced 41 million barrels of oil in the past, and geologists estimate that these lands will produce an additional 20 million barrels of oil in the future.

Current production values are approximately $11,300,000 per year, and the Osage royalty from this production amounts to some $1,900,000 per year. Future production, calculated at today's prices, are expected to amount to $800,000,000. The Tribe's royalty income from this future production will be more than $130,000,000.

It should be clearly understood that these are not historical figures. The lands underlying the Skiatook project produced 182,000 barrels of oil and 11 million cubic feet of gas in 1978 alone. More than half of this property is not producing solely because the Corps of Engineers has announced its intention to flood the property and has chilled the atmosphere for investing in this production. Similarly, there are more than 350 producing wells in the Candy Creek area, and 20 percent of this property has not yet been put into production.

The Department of the Army may disparage these values. However, the Army has underestimated the value of Indian property in past dealings. As an example, the last project that the Corps completed on the Osage Reservation was the Birch Creek project. For that property the Corps offered the Osage Tribe $82,000. The Tribe rejected that offer and was awarded more than $1,000,000 by the court. More importantly, unlike the properties involved in the amendment, the Birch Creek property was not producing at that time and had not produced more than 40 million barrels of oil in the past.

It seems highly inconsistent that a nation which faces an energy production crisis that our nation faces, should insist upon effectively terminating a producing oil field and foregoing 20 million barrels of oil valued at $800,000,000 merely because another agency has already spent $30,000,000 in the past because of its misinterpretation of the law.

In 1978, the United States Attorney for the Northern District of Oklahoma instituted condemnation proceedings on behalf of the Corps of Engineers to condemn certain subsurface lands held in trust by the United States for the Osage Tribe. The Osage Tribe sought dismissal of the suit on the grounds that the United States could not condemn the Osage tribal lands without a specific act of Congress clearly manifesting the intent to authorize the condemnation of such lands. This Department informed the Department of Justice that we agreed with the position of the Tribe. The Justice Department did not oppose the Tribe's motion to dismiss and the case was dismissed on August 20, 1979.

As a legal matter, there is no doubt that Congress can authorize the condemnation of tribal lands. United States v. Winnebago Tribe of Nebraska, 542 F.2d 1002 (8th Cir. 1976). However, present Federal Indian policy does not favor non-consentual disposition of tribal assets. See 25 U.S.C. 476. Condemnation authority is, therefore, not lightly granted. Indeed, in a 1969 report of the House Committee on Government Operations, the Committee suggested that the policy against non-consentual disposition of tribal lands is so strong that legislation respecting condemnation of Indian lands might "in view of the special status of Indian reservations, require that the condemning agency establish the necessity for the taking by clear and convincing evidence." (H.Rept. No. 91-78, 91st Cong. 1st Sess. 9-10.)

Therefore, in light of the potential actual costs which will be involved in subordinating or condemning this property, the vast energy resources which will be forfeited by flooding this property, and in light of the severe economic impact on the local oil and gas industry, as well as the devastating effects this legislation would have on the Osage Tribe of Indians, we strongly oppose the amendment. Such a serious action is not justified without an opportunity for a hearing and careful consideration of all aspects of the issues involved.

Sincerely,

Assistant SECRETARY

SYLVESTER J. TINKER
Principal Chief
Osage Tribe of Indians

ED RED EAGLE, SR.
Assistant Principal Chief

MEMBERS OF COUNCIL
Ralph R. Adkisson
Joe Colby, Sr.
D E (Bill) Martin
Camille W. Pangburn
Harry Red Eagle, Jr.
Dudley Shannon
John Tallchief
Charles Tillman, Jr.

OSAGE TRIBAL COUNCIL
Pawhuska, Oklahoma
74056

EFFECTS OF SKIATOOK AND CANDY CREEK LAKES ON THE OSAGE MINERAL ESTATE

By the Act of June 28, 1906 (34 Stat. 539), Congress reserved in trust for the benefit of the Osage Tribe all mineral interests underlying the surface lands within the Osage Indian Reservation.

By the Flood Control Act of October 23, 1962 (76 Stat. 1186), Congress authorized the United States Army Corps of Engineers to construct the following flood control projects which are wholly or partially located within the boundaries of the Osage Indian Reservation:

Project	Estimated Acreage Within Osage County	Status
Kaw Lake	8,406	Completed
Birch Creek	3,926	Completed
Skiatook Lake	20,000	Under Construction
Candy Creek	4,700	Under Construction
Sand Creek	6,200	Proposed
Shidler Creek	7,200	Proposed
Total Acreage	50,230	

The area of the Osage mineral estate that will be affected by Skiatook and Candy Lakes is in excess of 25,000 acres, which area has produced 33,800,000 barrels of oil through mid-1979. With existing technology and that which is in current state of development (enhanced recovery), it is well within reason to expect to recover in the future as much oil as has been produced to date from these known and proven producing areas. While other branches of Government, including the

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Bureau of Indian Affairs, Department of Interior, which has primary trust responsibility for the Osage mineral estate, are promoting domestic self-sufficiency in energy resources, the Corps of Engineers continues to inundate areas of known oil and gas reserves which are prime prospects for the application of primary, secondary, and enhanced recovery of hydrocarbons.

In addition, these areas include a substantial number of acres which have the potential for oil and gas production under existing conventional recovery methods. The area to be affected by these lakes was known to the Osage operators in the 1960's when the price of oil was $3 per barrel and there was no market for natural gas, thus even with substantial oil price increases the area has never responded to the nationwide increase in exploration and development. Osage oil and gas operators were reluctant to take substantial risks in developing oil and gas properties with the probability that these properties, in the near future, would be confiscated by the Corps of Engineers. As a result much of the acreage remains essentially unexplored, undeveloped, and nonproductive.

Absent the knowledge of the imminent construction of the lakes, this area, like all of Osage County, surrounding counties, and states, would have participated in the development and production boom that is now taking place.

CURRENT AND POTENTIAL LOSS FROM KNOWN PRODUCING AREAS

	Skiatook	Candy	Total
Acres	20,000+	5,000+	25,000+
Cumulated Oil Production-Bbls.	11,400,000	22,400,000	33,800,000
Current Oil Production-Bbls/yr	150,000	100,000	250,000
Current Gross Revenue-$/yr	6,000,000	4,000,000	10,000,000
Estimated Reserves-Bbls	12,000,000	25,000,000	37,000,000

Future Gross Revenue-$*	480,000,000	1,000,000,000	1,480,000,000
Potential Loss-$:			
Producer	263,780,000	542,874,000	806,654,000
Osage Tribe	76,000,000	158,335,000	234,335,000
State Taxes	32,000,000	66,666,000	98,666,000
Federal Taxes	108,220,000	232,125,000	340,345,000

* Based on current wellhead price for crude oil

The above does not give any consideration to the potential loss from undeveloped lands to be inundated.

SUMMARY

If the lakes are allowed to be built, the Osage Tribe and current lessees will ask for damages in excess of $382 million for Skiatook Lake and $796 million for Candy Lake. In addition, the State of Oklahoma will lose over $98 million and the Federal Government, $340 million in tax revenue. These damages will completely invalidate the Corps of Engineers cost/benefit ratio formulas. Even more appalling will be the loss to the Nation as a whole of potentially 1 billion barrels of oil and uncalculated millions of cubic feet of natural gas.

All statistical information used to write this report is available from the Superintendent, Osage Indian Agency, Pawhuska, Oklahoma 74056.

Respectfully submitted,

THE OSAGE TRIBAL COUNCIL

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